

REMARKS

Claims 32-42, 44-52, and 54-58 remain pending in the application and stand rejected as being unpatentable in light of the prior art. By way of this amendment, claims 43 and 53 have been canceled without prejudice, claims 32, 35, 36, 40, 44, 45, 46, 49, 54, 55 and 56 have been amended, claim 59 has been added. Reconsideration and allowance is respectfully requested in view of the foregoing amendments and the following traversing remarks.

Copies of (1) Short Course, Overviews and tutorials on important clinical and professional topics, "Otoacoustic Emissions", Theodore J. Gattke and Sharon G. Kujawa, Department of Speed and Hearing Sciences, University of Arizona, Tucson, November 1991, pp. 29-37, and (2) "ABR 20 Years Later: Answers to 5 Common Clinical Questions", James W. Hall, III, The Hearing Journal, February 1992, vol. 45, no. 2, pp. 22-25 were not enclosed in the Information Disclosure Statement filed on December 7, 2001 because pursuant to 37 C.F.R. 1.98(d), the above-referenced publications were previously cited by, or submitted to, the Patent Office in the following patent application that applicants rely upon for an earlier filing date under 35 U.S.C. § 120: Raviv et al., serial no. 09/225,754 filed on January 5, 1999, entitled "Ear Probe Tip", and issued on July 10, 2001 as U.S. Patent No. 6,258,043. However, as requested and for the convenience of the examiner, applicants submit herewith copies of the above-referenced publications cited in the Information Disclosure Statement filed on December 7, 2001 (Exhibit C attached hereto).

Turning to the prior art rejection, claims 32-42, 44-52, and 54-58 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Baum, U.S. Patent No. 2,487,038. The applicants respectfully submit that the Baum reference fails to disclose each and every element of the pending claims, and therefore fails to anticipate the rejected claims.¹

¹ "Anticipation under 35 U.S.C. § 102 requires the disclosure in a single piece of prior art of each and every limitation of a claimed invention." *Rockwell International Corp. v. United States*, 47 USPQ2d 1027 (Fed. Cir. 1998).

Claims 32, 40, and 49, as well as dependent claims therefrom, specify, *inter alia*, an ear probe tip having a body portion, a first flangeless end, a second end, a passage configured to receive an end of a probe from the second end toward the first flangeless end, and an annular flange disposed on the outer surface of the body portion.

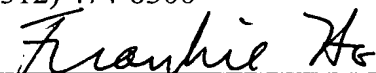
Baum fails to disclose such elements. In fact, Baum discloses an ear insert having a sound passage (shown as 20 in FIG. 1) configured to form an acoustic channel. Further, Baum discloses a cavity (shown as 22 in FIG. 1) configured to couple an end of a probe and the ear insert without asserting the probe into the acoustic channel formed by the sound passage. That is, the probe is held in place in the cavity by a fastener. See, e.g., col. 2, lines 28 – 38. Thus, the probe extends only a short distance into the ear insert. No reference of a passage configured to receive an end of a probe substantially the entire length of the passage to eliminate the need for the passage to form an acoustic channel is provided by the Baum reference. The applicants therefore respectfully request that the anticipation rejection be withdrawn.

The commissioner is authorized to charge any deficiency in such payment or any payment required in connection with the filing of this paper or to credit any overpayment to Deposit Account 13-2855. A duplicate copy of this paper is enclosed.

Respectfully submitted,

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